

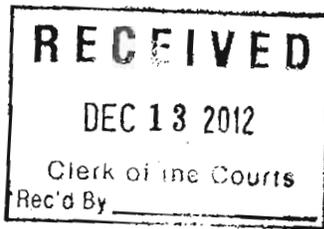
From: "Stephen J. Jones" <sjjonesatty@gmail.com>
To: <janice.rawls@tncourts.gov>
Date: 12/10/2012 4:43 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, December 10, 2012 - 4:43pm
Submitted by anonymous user: [66.18.33.130]
Submitted values are:

Your Name: Stephen J. Jones
Your Address: 73 Shallowford Rs, Apt.1, Chattanooga, Tennessee 37404
Your email address: sjjonesatty@gmail.com
Your Position or Organization: slos practitioner
Rule Change: Supreme Court Rule 13, Section 2
Docket number: M2012-02235-SC-RL2-RL
Your public comments:

On the court's previous limitation of 12.5 hours per day, which totals 44562.5 hours per year on 365 days is not excessive. I beleive that 2000 is much too low. I do a large amount of appointed works, and I often work some part of seven days in a wekk, and sometimes most of a holiday, or weekend. I don't beleive the quality of my representation is diminished thereby. Further, the ability of one person over another may vary, and those capable of handling a larged workload usccessfully should not be denied the opportunity to doso. The Client alos should not be denied that preresentation of experienced, and skilled counsel. This rule would tend to causes the latter to happen.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/3988>



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December 10, 2012

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

RE: Comment on Proposed Amendment to Supreme Court Rule 13, No. M2012-02235-SC-RL2-RL-Docket Number

Dear Mr. Catalano,

Please be kind enough to file this with the Court and disperse the same to the Honorable Justices of the Supreme Court.

MAY IT PLEASE THE COURT:

This is in regard to the proposed rule to limit the number of hours appointed counsel may bill in any given calendar year to 2000. This is apparently an attempt to cap the amount of money any given attorney may receive from the AOC for indigent defense work. The proposed rule purports to base this limit on an assumption that working more hours than 38.5 per week pre-supposes ineffective assistance of counsel.

If such is the case, working in excess of 38.5 hours equates with sub-standard performance, then the question is how is this important policing of hours to protect the client is going to be enforced on the private bar that does not accept indigent defense work. A friend of mine who recently left the job as clerk to one of our trial level judges to go to work for one of the larger firms in Nashville told me that he was told if he failed to bill on average 60 hours a week, he would not be working there for very long. Are you saying that the indigent defendant is entitled to more protection than a privately retained civil client? It would seem to me that if this presumption is valid, a mechanism to apply the standard to all attorneys would be necessary, for equal protection considerations if nothing else.

I really don't believe that is what this rule is addressing. The elephant in the room that is not being addressed directly is that apparently some attorneys, you feel, are "soaking the system" and billing for far more hours than you feel is doable. If that is in fact the problem you are seeking to address, then why not address it head-on and simply adopt a rule that when the aggregate claims of any one attorney exceed X dollar amount, the AOC is authorized to have an

audit performed to determine the legitimacy of the claims. If the audit in fact turns up fraudulent claims, then the attorney is liable for the cost of the audit and the attorney will be referred to the Board of Professional Responsibility for disciplinary action.

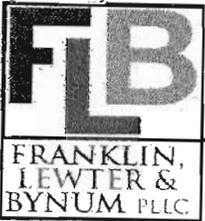
Those of us taking indigent defense work already have to practice with “one eye on the rear view mirror” with the thought in mind of how the doing or not doing of certain things in the course of representation will be viewed by a post-conviction court. Now, you are asking us to take the other eye off the ball and focus on a clock or calendar so as not to exceed working an arbitrary number of hours a year. There is an old adage that would appear to apply, to wit: “When you are up to your rump in alligators it’s hard to remember that your original objective was to drain the swamp”. This rule would certainly increase the number of alligators.

I sincerely and respectfully beg of you to find another solution to what you view as a problem with billing for indigent defense work.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Collins", written in a cursive style.

David A. Collins



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*Rec'd 12-14-12
Jay*

DECEMBER 13, 2012

Michael W. Catalano, Clerk
Tennessee Supreme Court
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219- 1407

In Re: Tennessee Supreme Court Rule 13, Section 2(g)

Dear Mr. Catalano,

I am writing in opposition to the proposed changes of the above referenced rule. Having routinely taken court appointments in all areas of juvenile law for the last three years, I believe that an annual cap on claims for court appointed lawyers would neither save state funding, nor increase efficiency of the courts of this state.

In the event that an attorney reaches his annual cap on billing, it is likely that the attorney will seek to withdraw from all of his existing appointed cases for the year. The court would then have to reassign cases to other attorneys who would then start not only the billing process over, but also have to become acquainted with the cases to which they have been appointed. I believe that this would cause dockets to become overburdened and frustrated in many instances, particularly in the metropolitan areas.

As an attorney who handles a high volume of court-appointed cases, I can say that the nature of this work is not comparable to the typical work day of a state or government position. For the most part, my days are spent in the local juvenile courthouse. In the late afternoons, I meet clients, and this continues until the early evening hours. For my practice, research and writing are often reserved for late evenings or weekends. Simply put, routinely handling a high volume of appointments often does not equate to a forty hour work week, nor does it carry a traditional "nine to five" work schedule.

While it does appear that 3,500 billable hours in a year is excessive by any standard, it is not out of the ordinary for an associate in a law firm to be expected to bill 2,200 or more hours in a calendar year. While a small hand full of attorneys have abused the existing system, I believe that the overwhelming majority of attorneys that do this work, work diligently at representing the public, and only want to be fairly compensated for the work they do. If an attorney works 2,400 hours on indigent defense cases in a given year, it only seems fair that the attorney be compensated for the work that he or she has done. Furthermore, even under the existing rule, attorneys frequently "cap out" on cases because of Rule 13 limits on compensation.

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REPRESENTATION WITH INTEGRITY AND DEDICATION



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It seems that the real issue is the few attorneys that have abused the system in years past. While I would have to agree that some measures should be taken to safeguard against fraudulent billing practices, to limit an attorneys annual compensation to 2,000 hours would be punishing the multitude of attorneys that are hard-working, honest, and diligent in their service to the public. I am honored to serve in the capacity of court appointed counsel for the indigent, but my services do not cease to exist after 5:00pm on weekdays, or even weekends for that matter. In my humble opinion, I believe that an annual cap, if set, should be much higher than 2,000 hours which would hopefully reflect the number of billable hours that an attorney could actually work over a given year. Please consider the negative consequences that this amendment would have on the indigent clients, the attorneys that represent them, and the courts. I respectfully urge the Supreme Court to reject this amendment as proposed.

Sincerely,

James Franklin, Jr.
TNBPR #024118

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REPRESENTATION WITH INTEGRITY AND DEDICATION

From: "James A. Rose" <james@jroseattorney.com>
To: <janice.rawls@tncourts.gov>
Date: 12/13/2012 1:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, December 13, 2012 - 1:08pm
Submitted by anonymous user: [174.50.221.42]
Submitted values are:

Your Name: James A. Rose
Your Address: 19 Music Sq W, Ste R, Nashville, TN 37203
Your email address: james@jroseattorney.com
Your Position or Organization: Solo practicing attorney
Rule Change: Supreme Court Rule 13, Section 2
Docket number: M2012-02235-SC-RL2-RL
Your public comments:

I respectfully take issue with this proposed rule change and ask that the Court at least reconsider the amount of hours allowed by individual attorneys each year. The practice of law, at least in the indigent defense arena, cannot be "boxed" into a finite amount of hours, suitable for delivery at a designated time. Each case is like a fingerprint, and each requires various amounts of decision-making, preparation, filing of pleadings and briefs, negotiation, and, sometimes, a full trial. There is no way to tell in a given year how many hours it will take to provide diligent, competent representation that would withstand Constitutional scrutiny at any level. Capping the amount of hours payable in a year is telling attorneys that they should do it for free past the 2000 hour threshold. This is insulting to attorneys who work hard to represent indigent clients each year.

Individual audits should be able to eliminate the payment of claims for unreasonable amounts of time spent on cases. To be sure, there is no such thing as an unlimited amount of time available on any case, whether compensated by the State or by a private party. We are under a duty to manage our time to ensure accuracy and efficient use of public funds or client funds. In recent years, placing limits on cases designated "complex and/or extended" was a check put in place to keep attorneys alert to this.

This amendment likely would not affect me individually in my practice. I do significant indigent defense work but also accept private-hire matters in the areas of family and entertainment law. I am respectful of noble goals but continue to grow weary of reading proposed amendments that seem to limit the amount of time attorneys may be paid to work or that threaten their livelihoods. Time after time, members of the Tennessee bar step up to the task of pro bono representation, community service, and going "above and beyond" to give back to their respective communities. Proposed rule amendments such as this send the wrong message: "Please give, but allow us to take."

Please reconsider this proposed change to Supreme Court Rule 13.

Sincerely and respectfully,
James A. Rose

The results of this submission may be viewed at:

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FRANCIS X. SANTORE (1931 - 2004)

FRANCIS X. SANTORE, JR.

DEC 12 2012

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December 10, 2012

Mr. Michael Catalano, Clerk
100 Supreme Court Bldg.
401 7th Avenue North
Nashville, TN 37219-1407

IN RE: Docket No. M2012-02235-SC-RL2-RL
Proposed Change to Supreme Court Rule 13, Section 2

Dear Mr. Catalano:

While I do not necessarily object to the 2000 hourly yearly cap on indigent services, I feel that some provision needs to be made in the event an attorney is, during a single year, involved in (a) a death penalty case, (b) a non capital murder case and/or (c) a complex case of another nature. In that event, if the affected attorney bills over 2000 hours, his or her bill should be reviewed to ascertain whether the total billings are the result of a participation in one of these three types of cases set forth above, which are very time consuming. For instance, I can certainly see the situation where a capital murder case will take 1000 hours or more of the attorney's time during a particular year, working on weekends and the like.

Please add this comment to the list of comments you are receiving with regard to the above captioned rule.

Yours truly,

SANTORE AND SANTORE

Francis X. Santore, Jr.

